

Attorney Docket No. 1147

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Albertsen et al.		Art Unit: 1638
Serial No.: 10/058,566		
Filed: January 28, 2002		Examiner: A. Kubelik
For: NUCLEOTIDE SEQUENCES MEDIATING MALE FERTILITY AND METHOD OF USING SAME		

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner of Patents
Washington, D.C. 20231

Dear Sir,

In response to the Restriction Requirement dated September 29, 2003, the Applicant elects Group III, and Sequence ID NO: 5 with traverse.

The Applicant traverses the separation of claims to the promoter, Group III, claims 2-3, 5-6, 8-9, 11, 13 and 23-26 from the claims to the gene, Group I, claims 1, 4, 7, 10, 12, 14-22, 27-33. The claims of Group III are the BS92-7 promoter, expression vectors, plants and plant cells containing the promoter and method of using it to impact fertility. The claims of Group I are to the gene, plants and plant cells transformed with the nucleic acid and method of using to impact fertility. An independent search of the sequences is not necessary; one search of the BS92-7 gene will suffice to include the promoter and its essential regions.

Further, the Applicant traverses the separation of the claims to the gene, in Group I, from claim 34 to the deposited seed containing the gene, Group IV. No independent

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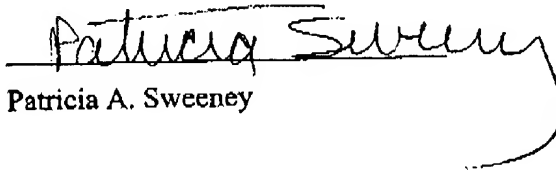
October 8, 2003
Date

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search is necessary and both groups of claims are directed to the same subject matter.
Applicant requests rejoinder of these claims.

For the foregoing reasons reconsideration of the Restriction Requirement is requested.

Respectfully submitted,


Patricia A. Sweeney

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